

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CIVIL CASE NO. 3:02cv385

**ASPEX EYEWEAR INC.,)
MANHATTAN DESIGN STUDIO, INC.,)
CONTOUR OPTIK, INC., and)
ASAHI OPTICAL CO., LTD.,)**

Plaintiffs,

vs.

**UNITED SYNTEK CORPARTION,)
d/b/a JONATHAN CATE EYEWEAR,)**

Defendant.

ORDER

THIS MATTER is before the Court *sua sponte* to advise the parties of the format to be followed during the Markman¹ hearing presently scheduled for June 26, 2008.

In accordance with the Scheduling Order [Doc. 59, filed August 24, 2007], the parties have now filed their respective motions for claim construction and rebuttal briefs. The hearing will proceed with the following format:

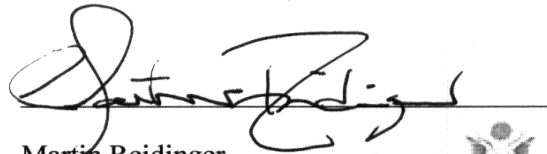
¹Markman v. Westview Instruments, Inc., 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996).

1. The Plaintiffs shall proceed first and are limited to a total time of ninety (90) minutes which shall be divided as follows:
 - a. a brief opening statement;
 - b. a tutorial on technology as it relates to the patent under consideration; and
 - c. discussion of the disputed claim terms which are to be addressed one at the time.
2. The Plaintiffs may rely on argument, power point presentation and/or the testimony of live witnesses. However, all such presentations are limited to an aggregate total of ninety (90) minutes. In the event that the Plaintiffs desire to make a power point presentation, counsel must provide the Court with a notebook containing a hard copy of the power point slides at the time of the hearing, except that such notebook need not contain additional copies of exhibits that are duplicative of exhibits already filed in connection with the pending motions. In the event that the Plaintiffs present live testimony, the Defendant's cross-examination of the witness, if any, will count toward Defendant's total time of ninety minutes as set out below.

3. The Defendant will then make its presentation in the same format and with the same conditions. The ninety (90) minute time period for the Defendant will be reduced by the time spent by the Defendant in cross-examination of any witness presented by the Plaintiffs. The Plaintiffs may cross-examine any live witness of the Defendant if and only to the extent that it reserved a portion of its original ninety (90) minutes for such purpose. In order to make a determination as to the allocation of time, the parties shall inform each other at least twenty-four (24) hours in advance of the scheduled beginning of the Markman hearing whether they intend to present any testimony at the hearing, and the identities of any such witnesses.
4. After the above presentations, each side will be allowed to make a closing statement, if desired, not to exceed thirty (30) minutes.
5. No further filings in this matter will be allowed absent prior permission until such time as the Court has rendered a claim construction decision.

Signed: June 3, 2008

IT IS SO ORDERED.


Martin Reidinger
United States District Judge

